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10/821,194	04/09/2004	Yoshihiko Sano	163852020900	8606

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EXAMINER

MALLARI, PATRICIA C

ART UNIT

PAPER NUMBER

3736

DATE MAILED: 11/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/821,194

Applicant(s)

SANO ET AL.

Examiner

Patricia C. Mallari

Art Unit

3736

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 25 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

This is a non-final Office action. The allowability of claims 4 and 5 has regretfully been withdrawn. Rejections based on newly applied reference US Patent No. 1,756,769 to Tost follow.

#### ***Claim Objections***

Claim 1 is objected to because of the following informalities:

On each of lines 10, 13, and 15, "a human body" should be replaced with "the human body". Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by EP 1 013 220 to Freund et al. Freund teaches a blood pressure meter cuff fastener (paragraph 25 of Freund) comprising a belt member 2 adapted to substantially surround a part of a human body (fig. 1; paragraph 25 of Freund). A winding length adjusting unit 7, 8, 11, 12 is capable of selecting among three states (figs. 1-3 of Freund). The first state is a measuring winding length adjusting the blood pressure meter cuff fastener to a first winding length for measuring a blood pressure in the part of the human body, wherein the closing device is closed and the collar is tensioned manually using the adjustment

wheel 11 (paragraph 29 of Freund). The second state is a non-measuring winding length state adjusting the blood pressure meter cuff fastener to a second winding length longer than the first winding length in order to maintain a mounting state thereof on the part of the human body in a non-measuring state, wherein the closing device is closed, but the collar has not yet been tensioned manually (paragraph 29 of Freund). The third state is a mount/demount length state capable of mounting or demounting the blood pressure meter cuff fastener on the part of the human body (fig. 1; paragraph 29 of Freund).

***Claim rejections - 35 USC 102/103***

Claims 1-6 are rejected under 35 U.S.C. 102(b) as anticipated by US Patent No. 1,756,769 to Tost or, in the alternative, under 35 U.S.C. 103(a) as obvious over US Patent No. 1,756,769 to Tost in view of EP 1 013 220 to Freund. See the above section for the basis of a rejection under 35 U.S.C. 102(b) and the section below for the basis of a rejection under 35 U.S.C. 103.

Tost teaches a fastener comprising a strap or belt 4, 5 which may be disposed around a user's wrist (col. 1, lines 1-5 and lines 35-42 of Tost). The fastener comprises a winding length adjusting unit connected to the belt member 4, 5 and is capable of selecting among three states (figs. 1-3 of Tost). The winding length adjusting unit comprises a body section 8-10, 12-17 and a sliding section 5, 7 (figs. 1-3; col. 1, line 47- col. 2, line 75 of Tost). In a measuring winding length state, the fastener may securely adjust the strap 4, 5 to a first winding length by connecting the top plate 8 to the bottom plate 12 via hooks 16 and studs 17 (fig. 1; col. 2, lines 59-66 of Tost) and the sliding

section 5, 7 may be slid in a direction increasing the tension of the strap 4, 5 while the strap surrounds the wrist (figs. 1-3; col. 1, line 47-col. 2, line 51 of Tost). In a non-measuring winding length state, the fastener may provide a longer strap length than the first winding length by sliding the sliding section 5, 7 relative to the body section 8-10, 12-17 in a direction to be released from the body section (figs. 1-3; col. 1, line 47-col. 2, line 51 of Tost). In a mount/demount length state for mounting or demounting the strap from the wrist, the top plate 8 may be removed from connection with bottom plate 12 (figs. 1 & 2; col. 1, lines 1-8 of Tost).

As to the language "blood pressure meter cuff" on line 1 lines 9-10, and again on lines 11-12 of claim 1, describing the fastener the applicants should note that the blood pressure meter cuff fails to positively be claimed. The blood pressure meter cuff is claimed only as an "intended use" of the fastener, (i.e. the fastener is for a blood pressure meter cuff). Similarly the limitation "non-measuring" on line 13 of claim 1 also merely describes an intended use of the invention. These limitations cannot be relied upon to define over the prior art, since Tost teaches all of the claimed structural limitations and their recited relationships. See *Ex parte Masham* 2 USPQ 2<sup>nd</sup> 1647. The fastener of Tost could certainly be used for a blood pressure meter cuff fastener in all the states described in claim 1, including a state in which the meter does not measure.

Alternatively, Freund discloses a blood pressure cuff meter fastener having a winding length adjusting unit capable of three states. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to replace the fastener

of Freund with that of Tost, as it is merely the substitution of one known fastener for another.

Regarding claim 3, the winding length adjusting unit has a first fixing mechanism 7, 19 for selectively fixing one of the measuring winding length state and the non-measuring winding length state between the body section 8-10, 12-17 and the sliding section 5, 7 (figs. 1-3; col. 1, line 48-col. 2, line 51 of Tost).

Regarding claim 4, the body section 8-10, 12-17 has a first body section 12, a second body section 10, provided pivotally on one end 13 of the first body section 12 and which can be folded on the first body section 12, and a third body section 8, 9, provided pivotally on the other end 11 of the second body section 10 and can be folded on the second body section 10 (figs. 1-3 of Tost). The first 12, second 10, and third 8, 9 body sections are folded to be superimposed one on another to enable the measuring winding length state and the non-measuring winding length state to be achieved (fig. 3 of Tost). The second body section 10 and the third body section 8, 9 are released from the folding state of the first body section 12 to enable the mount/demount length state to be acquired (fig. 1; col. 1, lines 1-8 of Tost).

Regarding claim 5, a second fixing mechanism 15-17, for fixing the measuring winding length state and the non-measuring winding length state, is provided between the first body section 12 and the third body section 8, 9 (figs. 1-3; col. 2, lines 59-67 of Tost).

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Freund, as applied to claim 1 above, and further in view of US Patent No. 4,331,154 to Broadwater et al. Freund discloses the device 1 as being a the closing device of a blood pressure measuring device (paragraph 25 of Freund) but fails to give details as to the blood pressure measuring device. However, Broadwater describes an electronic blood pressure measuring device or meter attached to a strap for mounting on a user's wrist (fig. 1; col. 3, lines 41-47; col. 4, lines 23-32; col. 5, lines 19-30 of Broadwater). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to use the electronic blood pressure meter of Broadwater as the blood pressure measuring device of Freund, since Freund teaches the device as being that of a blood pressure measuring device, and Broadwater describes an appropriate such blood pressure measuring device.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-3 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

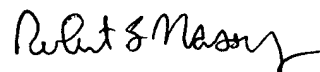
US Patent No. 5,927,577 to Braun, US Patent NO. 2,499,102 to Levine, and US Patent NO. 6,185,799 to Gay all teach fasteners for a wrist strap similar to that of Tost as described above.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patricia C. Mallari whose telephone number is (571) 272-4729. The examiner can normally be reached on Monday-Friday 10:00 am-6:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max Hindenburg can be reached on (571) 272-4726. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Patricia Mallari  
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Art Unit 3736



ROBERT L. NASSER  
PRIMARY EXAMINER